IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Bail Appl..No. 4909 of 2007()

CRIME NO.338 OF 2007 OF MANANTHAVADY POLICE STATION

: PETITIONER/ACCUSED:

RADHAMONY AMMA,
LAKSHMI SADANAM, NALLURNAD P.O., PAYOD,
MANANTHAVADY.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT/STATE:

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1. THE SUB INSPECTOR OF POLICE,
MANANTHAVADY POLICE STATION.

2. STATE, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4909 of 2007

Dated this the 16th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner, a woman, faces allegation, inter alia, under Sections 468 & 471 I.P.C. One Narayanan Nair, a driver employed in the K.S.R.T.C had allegedly entered into legal matrimony with one Gouriyamma. Narayanan Nair retired and he is no more now. The said Gouriyamma filed a civil suit complaining that the pension which she is entitled to has not been paid by the K.S.R.T.C. The K.S.R.T.C found that Gouriyamma is receiving pension promptly. But Gouriyamma complained that she was not getting her pension. The matter was looked into in greater detail. It was found that in the pension papers of deceased Narayanan Nair, the photograph of the spouse was not that of Gouriyamma, but was that of the petitioner herein. The petitioner has the name Radhamaniyamma. She admittedly has been receiving pension that is payable to the widow of deceased Narayanan Nair. The prosecution alleges that in holding herself out as Gouriyamma in the pension papers and in having received pension due to the widow of Narayanan Nair claiming herself to be Gouriyamma, the petitioner has allegedly committed the offence. The crime has been registered. Investigation is in progress. The

petitioner apprehends imminent arrest. The petitioner is herself a pensioner - being a retired teacher, and she admittedly receives such pension in her name as Radhamaniyamma.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. She is not aware that her late husband had any earlier wife. She is not party to any forgery. Her photograph along with the husband was presented for claiming the pension. She has not committed any offence as alleged. It is prayed that directions under Section 438 Cr.P.C may be issued in favour of her to save her from the undeserved trauma of arrest and detention.

3. The application is opposed by the learned Public Prosecutor . The learned Public Prosecutor contends that in having described herself to be Gouriyamma in the pension papers and in having received pension in the name of Gouriyamma, the petitioner is certainly party to the fraud and there is no circumstances justifying invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. In the nature of the contention, the learned Public Prosecutor was requested to make the case diary available for my perusal. I have perused the case diary. I shall scrupulously avoid any detailed discussion about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that on an anxious consideration of

all the relevant inputs, I am not at all persuaded to agree that there are any features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek regula bail in the ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-